

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETSOCKET, INC.,

Plaintiff,

v.

CISCO SYSTEMS, INC.,

Defendant.

Civil Action No. 2:22-CV-00172-JRG

JURY TRIAL DEMANDED

JOINT MOTION TO AMEND THE DOCKET CONTROL ORDER

Plaintiff NetSocket, Inc. (“NetSocket”) and Defendant Cisco Systems, Inc. (“Cisco”) hereby respectfully move this Court to amend the Seventh Amended Docket Control Order to extend certain pre-trial and trial related dates as shown in the attached proposed amended docket control order. *See* Ex. A. The proposed schedule will necessitate moving the deadlines for the pre-trial conference and trial, but the parties believe good cause exists for this request as detailed below.

As noted in the Joint Motion to Amend the Sixth DCO, which contained minor time adjustments to non-starred deadlines, the parties have been meeting and conferring regarding a schedule adjustment that would permit more time for expert reports in light of new information that became apparent in the last two weeks before fact discovery closed on June 12, 2024. The parties do not seek this extension for the purpose of delay, and indeed have worked collaboratively to complete fact discovery and prepare their opening expert reports. However, three things have changed in the last two weeks of fact discovery that necessitate additional time for preparing expert reports.

First, as a result of the Court's May 30, 2024 Claim Construction Order, the only remaining asserted claims are method claims. This has emphasized different types of evidence for Plaintiff's expert report. In particular, and in response to a request from NetSocket on or about May 25, 2024, Cisco produced data on June 12, 2024 related to customer technical assistance that the parties have agreed NetSocket should have time to analyze and incorporate into its expert reports.

Second, the parties learned during the May 30, 2024 deposition of a Cisco witness of the relevance of an older version of NX-OS source code that had not previously been requested or produced. Cisco promptly collected and produced that code base to NetSocket, but because it is quite large (almost 4TB), NetSocket will require time to review that source code. The parties wish to permit NetSocket time to review that code before serving its opening expert reports.

Third, the last two weeks of discovery have provided the parties with new insight into what Cisco PIDs (essentially, product IDs) and software licenses are relevant for the damages calculation. This has required a supplemental financial production on the final day of fact discovery and significant discussions during the past week in which counsel for Cisco answered questions from counsel for NetSocket. The parties agree that NetSocket will require additional time to analyze that data.

The parties agree that above-identified new issues require modest additional time to incorporate into expert reports, and they have also agreed on some discrete follow-on discovery from Cisco. While the parties discussed the possibility of supplementing expert reports to account for the above issues, they agree that the record will be cleaner and it will be significantly more efficient to avoid a potential patchwork of supplementation. In short, while the parties have worked collaboratively and diligently to address the issues that have recently arisen, the parties wish to

permit submission of complete and fulsome opening expert reports on a modestly adjusted schedule.

The parties jointly seek to extend deadlines as stated in the attached Exhibit A, but will adhere to an alternative schedule to accommodate any conflicts that the Court might have, *e.g.*, pretrial or trial date. *See* Ex. A. The parties therefore respectfully request that the Court enter the attached proposed amended docket control order.

Dated: June 17, 2024

Respectfully submitted,

/s/ Zachary Ellis

Zachary H. Ellis*

Texas State Bar No. 24122606

zellis@daignaultiyer.com

512-829-7992

Of counsel:

Ronald M. Daignault* (pro hac vice)

Chandran B. Iyer (pro hac vice)

Jason S. Charkow* (pro hac vice)

Scott R. Samay (pro hac vice)

Oded Burger* (admitted to practice)

Shailendra K. Maheshwari* (admitted to practice)

Tedd W. Van Buskirk* (pro hac vice)

Stephanie R. Mandir (pro hac vice)

DAIGNAULT IYER LLP

8229 Boone Blvd., Ste 450

Vienna, VA 22182

rdaignault@daignaultiyer.com

cbiyer@daignaultiyer.com

jcharkow@daignaultiyer.com

ssamay@daignaultiyer.com

oburger@daignaultiyer.com

smaheshwari@daignaultiyer.com

tvanbuskirk@daignaultiyer.com

*Not admitted in Virginia

Brian S. Seal (pro hac vice)

Thomas G. Southard (pro hac vice)

Shaun D. Gregory (pro hac vice)

/s/ Sarah E. Piepmeier

Sarah E. Piepmeier (SBN 227094)

Email: SPiepmeier@perkinscoie.com

Perkins Coie LLP

505 Howard Street, Suite 1000

San Francisco, CA 94105

Tel: 415-344-7000

Janice L. Ta (SBN 24075138)

Email: JTa@perkinscoie.com

Perkins Coie LLP

405 Colorado St., Suite 1700

Austin, TX 78701

Tel: 737-256-6100

Ryan B Hawkins (SBN 256146)

Email: rhawkins@perkinscoie.com

Perkins Coie LLP

11452 El Camino Real, Suite 300

San Diego, CA 92130-2080

Tel: 858/720-5709

Hessam Gharaviram (*Pro Hac Vice*)

Email: hgharaviram@perkinscoie.com

Perkins Coie LLP

3150 Porter Drive

Palo Alto, CA 94304-1212

Tel: 650-838-4319

James Miller (SBN 55524)

Email: jmillier@perkinscoie.com

Samantha Hunt (*Pro Hac Vice*)

Email: samanthahunt@perkinscoie.com

Perkins Coie LLP

TAFT STETTINIUS & HOLLISTER LLP
200 Massachusetts Ave., Suite 400
Washington, DC 20001
Tel: (202) 664-1537
bseal@taftlaw.com
tsouthard@taftlaw.com
sgregory@taftlaw.com

Richard Eric Gaum (pro hac vice)
TAFT STETTINIUS & HOLLISTER LLP
200 Public Square, Suite 3500
Cleveland, Ohio 44114-2302
Tel: (216) 241-2838
egaum@taftlaw.com

Mira Vats-Fournier (pro hac vice)
TAFT STETTINIUS & HOLLISTER LLP
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Tel: 612-977-8075
Mvats-fournier@taftlaw.com

Attorneys for Plaintiff NetSocket Inc.

1201 Third Avenue, Suite 4900
Seattle, WA 98101
Tel: 206-359-8584

Nathanael D Andrews* (*Pro Hac Vice*)
*Admitted only in California
Email: nandrews@perkinscoie.com

Perkins Coie LLP
700 13th St., NW, Suite 800
Washington, DC 20005
Tel: 202-661-5882

Melissa R. Smith, Bar No. 24001351
J. Travis Underwood Bar No. 24102587
GILLAM & SMITH, L.L.P.
303 South Washington Ave
Marshall, Texas 75670
Telephone: (903) 934-8450
Facsimile: (903) 934-9257
Email: melissa@gillamsmithlaw.com

Counsel for Defendant Cisco Systems Inc.

CERTIFICATE OF CONFERENCE

The undersigned counsel hereby certifies that counsel for the Plaintiff met and conferred with counsel for Defendant pursuant to Local Rule CV-7(h). The Parties are jointly seeking the relief sought in this Motion.

/s/ Jason Charkow
Jason S. Charkow

CERTIFICATE OF SERVICE

I certify that the foregoing document was filed electronically on June 17, 2024, pursuant to Local Rule CV-5(a) and has been served on all counsel who have consented to electronic service via the Court's CM/ECF system.

/s/ Jason Charkow
Jason S. Charkow